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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/668,849	09/22/2000	Robert M. Berton	426882000400	2900

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MORRISON & FOERSTER LLP  
425 MARKET STREET  
SAN FRANCISCO, CA 94105-2482

EXAMINER
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RHODE JR, ROBERT E

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 12/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Offic Action Summary</b>	Applicati n N .	Applicant(s)
	09/668,849	BERTON ET AL.
	Examiner	Art Unit
	Rob Rhode	3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any claimed patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1 - 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1 - 20 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 September 2000 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Pri ority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_.

**DETAILED ACTION**

***Drawings***

The drawings filed on 09/22/2000 are acceptable subject to correction of the informalities indicated on the attached "Notice of Draftperson's Patent Drawing Review," PTO-948. In order to avoid abandonment of this application, correction is required in reply to the Office action. The correction will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1 – 3, 5 – 7, 9 – 15 and 17 - 20 are rejected under 35 U.S.C. 102(b) as being unpatentable over SiCommNet (Sicomm.net) and hereafter referred to as "SiComm".**

Regarding Claim 1, SiComm teaches a computer related method for funding a state government procurement system comprising the acts of - a. providing an internet-based procurement system a service provider for use by a state government agency for procurement of goods and services (Page 1, Para. 1); b. providing an Internet portal for

use by the state government agency to communicate electronically with the internet-based procurement system (Page 2, Para. 1); and c. providing an Internet portal for use by a qualified vendor wishing to sell goods and/or services to the state government agency, whereby the vendor pays a fee to/the services provider for an opportunity to be connected to the internet-based procurement system (Page 2 and Page 3, Para. 8).

Regarding Claim 2, SiComm teaches a method comprising an additional act of providing the internet-based procurement system to the state government agency for a negotiated price payable to the services provider wherein the negotiated price is designed to provide direct cost savings to the state government agency over other methods of procuring equivalent goods or services (Page 3, Para. 4) and an additional act of providing an Internet portal for a customer of the state government agency, whereby the customer can execute an electronic transaction, via the internet-based procurement system, with the state government agency in exchange for a fee payable to the services provider (Page 2 and Page 3, Para. 8).

Regarding Claim 5, SiComm teaches a computer based method for a state government procurement system comprising the acts of - a. providing an internet-based procurement system by a services provider for use by a state government agency for procurement of goods and services (Page 4, CEO Message and Para. 9), where the internet-based procurement system is funded by fees comprising payments from participating vendors, payments by investment from the services provider, payments by

transaction fees collected from users of the internet-based procurement system and payments by reduced fees from the state government agency (Pages 2 and 3); and b. providing an Internet portal for use by the state government agency to communicate electronically with the internet-based procurement system to communicate electronically with vendors for goods or services desired by the state government agency (Page 2, Para. 1, 2 and 3) and an additional act of providing an Internet portal for use by a qualified vendor wishing to sell goods and/or services to the state government agency, whereby the vendor pays a fee to the services provider for the opportunity to be connected to the internet-based procurement system (Page 2, Para. 6, 7 and 8) and an additional step of providing an Internet portal for a customer of the state government agency, whereby the customer can execute an electronic transaction, via the internet-based procurement system, with the state government agency in exchange for a fee payable to the services provider (Page 4, Para. 9).

Regarding Claim 9, SiComm teaches a system for providing Internet-based electronic procurement services to a state government agency, comprising - a computer having a processor, a memory, a database, and communications connections to the Internet, the computer provided by a services provider (Page 5, Para. 2 and 3); and a first server mechanism coupled to the computer for providing procurement channels between buyers and sellers of goods and services (Page 5, Para. 2 and 3); and a second server mechanism coupled to the first server mechanism for communicating with an Internet portal in the state government agency (Page 5, Para 1, 2 and 3); and a third server

mechanism coupled to the computer for communicating with a qualified vendor of goods or services who is willing to pay a fee to the services provider for the opportunity to deal with the state government agency, the fee providing a basis for reducing the price of the procurement system to the state government agency (Page 5, Para. 1, 2 and 3 and Page 2, Para. 8).

Regarding Claim 10 and related Claim 18, SiComm teaches a system for implementing a computerized eProcurement system for a state government agency, comprising - a server computer hosting an computers to a plurality of state government agencies who comprise potential buyers of goods and/or services, said eProcurement system including a user interface (UI) comprising controls whereby a state government agency user selects criteria and a display whereby results are displayed (Page 4, Para. 3, 8 and 9 and Page 5, Para. 3); and a database of information electronically coupled to the server computer concerning goods and services available from a plurality of a qualified vendors of goods or services who are willing to pay a fee for the opportunity to deal with the state government agency (Page 4, Para. 2 and 8 and Page 5, Para. 3); and whereby said eProcurement system is available via the Internet to assist a state government agency buyer in locating a product or service of interest and in locating a specific qualified vendor (Page 2, Para. 1, 2 and 3).

Regarding Claim 11 and related Claim 19, SiComm teaches a computerized eProcurement system for a state government agency is provided by a services provider

for use by the state government agency for procurement of goods and services, where the computerized eProcurement system is funded by fees comprising payments from participating vendors, payments by investment from the services provider, and payments by transaction fees collected from users of the computerized eProcurement system (Page 2 and Page 3).

Regarding Claim 12, SiComm teaches an internet-based method for use in an eProcurement system by a state government agency comprising the following acts - providing a web site having a user interface (UI), wherein the UI includes user input and display windows for use by a state government agency user (Page 2, Para 1); and receiving at the web site user inputs indicative of a desired product or service (Page 4, Para. 8); and determining from a database whether the desired product or service is available from a qualified vendor wishing to sell goods and/or services to the state government agency (Page 4, Para. 9), whereby the vendor pays a fee to a services provider for the opportunity to be connected to the eProcurement system (Page 2, Para. 7 and 8) ; and providing information regarding the availability of the desired product or service to the state government agency user, wherein fees comprising payments from participating vendors fund the cost of the eProcurement system, payments by investment from the services provider, payments by transaction fees collected from users of eProcurement system and payments of reduced fees from the state government agency (Page 2 and Page 3).

Regarding Claim 13, SiComm teaches a computer related method for funding a state government procurement system comprising the acts of - a. providing an internet-based procurement system by a services provider for use by a state government agency for procurement of goods and services (Page 4, Para. 9); and b. providing an Internet portal for use by the state government agency to communicate electronically with the internet-based procurement system (Page 4, Para. 8); and c. providing an Internet portal for use by a qualified vendor wishing to sell goods and/or services to the state government agency, whereby the vendor pays a fee to a state government agency for an opportunity to be connected to the internet-based procurement system, said fee being used in partial payment to the services provider (Page 2, Page 3 and Page 5, Para. 5).

Regarding Claim 14, SiComm teaches a method comprising an additional act of providing the internet-based procurement system to the state government agency for a negotiated price payable to the services provider wherein the negotiated price is designed to provide direct cost savings to the state government agency over other methods of procuring equivalent goods or services (Page 3, Para. 1, 2, 3 and 4); and a additional act of providing an Internet portal for a customer of the state government agency, whereby the customer can execute an electronic transaction, via the internet-based procurement system, with the state government agency in exchange for a fee payable to the state government agency for an opportunity to be connected to the internet-based procurement system, said fee being used in partial payment to the services provider (Page 2, Page 3 and Page 5, Para. 5).

Regarding Claim 17, SiComm teaches a method comprising an additional act of providing an Internet portal for use by a qualified vendor wishing to sell goods and/or services to the state government agency, whereby the vendor pays a fee to a state government agency for the opportunity to be connected to the internet-based procurement system, said fee being returned in partial payment to the services provider (Page 2, Page 3 and Page 5, Para. 5).

Regarding Claim 20, SiComm teaches an internet based method for use in an eProcurement system by a state government agency comprising the acts of - providing a web site having a user interface (UI), wherein the UI includes user input and display windows for use by a state government agency user (Page 4, Para. 8); receiving at the web site user inputs indicative of a desired product or service; determining from a database whether the desired product or service is available from a qualified vendor wishing to sell goods and/or services to the state government agency, whereby the vendor pays a fee to a state government agency for the opportunity to be connected to the eProcurement system, said fee being returned to a services provider in partial payment for their services; and providing information regarding the availability of the desired product or service to the state government agency user, wherein the cost of the eProcurement system is funded by fees comprising payments from participating vendors, payments by investment from the services provider, payments by transaction

fees collected from users of eProcurement system and payments of reduced fees from the state government agency (Page 2, Page 3 and Page 5, Para. 5).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 4, 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over SiComm, in view of “Auctions Pay Dividends for Gov’t”; L. S. Tillet; News relies; May 2000, [www.internetwork.com](http://www.internetwork.com), 4 pgs (hereafter referred to as Auctions).**

SiComm does disclose and teach a computer related method for funding a state government procurement system including an internet-based procurement system by a service provider for use by a state government agency for procurement of goods and services and an Internet portal site for use by the state government agency to communicate electronically with the internet-based procurement system – as well as providing an Internet portal site for use by a qualified vendor wishing to sell goods and/or services to the state government agency, whereby the vendor pays a fee to the services provider for an opportunity to be connected to the internet-based procurement system.

SiComm does not specifically disclose and teach a method whereby the state government agency is able to use the internet-based procurement system to sell by auction or other methods, obsolete or excess inventory held by the state government agency to interested buyers.

However regarding Claim 4 and related Claims 8 and 16, Auction teaches a method wherein the state government agency is able to use the internet-based procurement system to sell by auction or other methods, obsolete or excess inventory held by the state government agency to interested buyers (Page 3, Para. 1 and 2).

It would have been obvious to one of ordinary skill in the art to have provided the method of SiComm with the method of Auctions to have provided the capability to use the internet-based procurement system to sell by auction or other methods, obsolete or excess inventory held by the state government agency to interested buyers – and thereby increase the opportunity to reduce inventory cost, gain revenue and thus increase the possibility of decreased taxes, while clearly demonstrating the effectiveness of eGovernment initiatives to taxpayers.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art includes Clark (US Patent 6,351,738 B1), Aggarwal (US Patent 6,151,589), "Bank of America and NIC Commerce Form Company to provide E - Commerce Solutions to State and Local Governments", PR NEWSWIRE; July 6, 2000 and "Colorado and Utah Announce Intent to Award E-Procurement Contract to NIC Commerce", PR NEWSWIRE; New York; Sep 1, 2000 which addresses both the scope of companies committed to online eprocurement systems for public agencies such as State Government – as well as patents pertaining to enabling eprocurement.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rob Rhode whose telephone number is 703.305.8230. The examiner can normally be reached on M-F 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703.308.1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703.305.7658 for regular communications and 703.308.3687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.1113.

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December 16, 2002

  
WYNN W. COGGINS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600